S.B. CIVIL WRIT PETITION NO.937/2005

Ram Kumar & Anr. Vs. ADJ, Sri Ganganagar and others.

Date : 13.5.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. CS Kotwani, for the petitioner.

Mr. Ramandeep Singh) for the respondents
Mr. K Khatri)

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Heard learned counsel for the parties.

The petitioner is aggrieved against the order dated 20.8.2004 by which the trial court dismissed the petitioners' application for impleadment under Order 1 Rule 10 CPC in a suit for specific performance of contract filed by respondents no.2 and 3.

According to learned counsel for the petitioners, the petitioners are having agreement to sale in their favour for the same property for which the suit has been filed by the respondents no.2 and 3 for specific performance of the contract. The petitioners also submitted that they are in possession of the suit property, therefore, the court below has committed serious illegality in not impleading the petitioners as party defendants in the suit. It is also submitted that the respondents no.4, 5 and 6 – vendors also filed a first information report against the plaintiffs/ respondents no.2 and 3 alleging and challenging the

agreement which has been set up by the respondents no.2 and 3.

In the facts and circumstances as referred herein above, it is clear that in a suit for specific performance of contract, the necessary parties are the persons against whom the relief of specific performance of contract has been sought and the petitioners who are claiming their any right, that right is being claimed through the defendants who are the respondents no.4 to 6 in this writ petition, therefore, I do not find any illegality in the impugned order passed by the court below so as to call for interference by this Court under writ jurisdiction.

In view of the above, I do not find any merit in this writ petition and the same is hereby dismissed.

The stay order granted by this court on 2.3.2005 is vacated. The stay petition is also dismissed.

(PRAKASH TATIA), J.

S.Phophaliya